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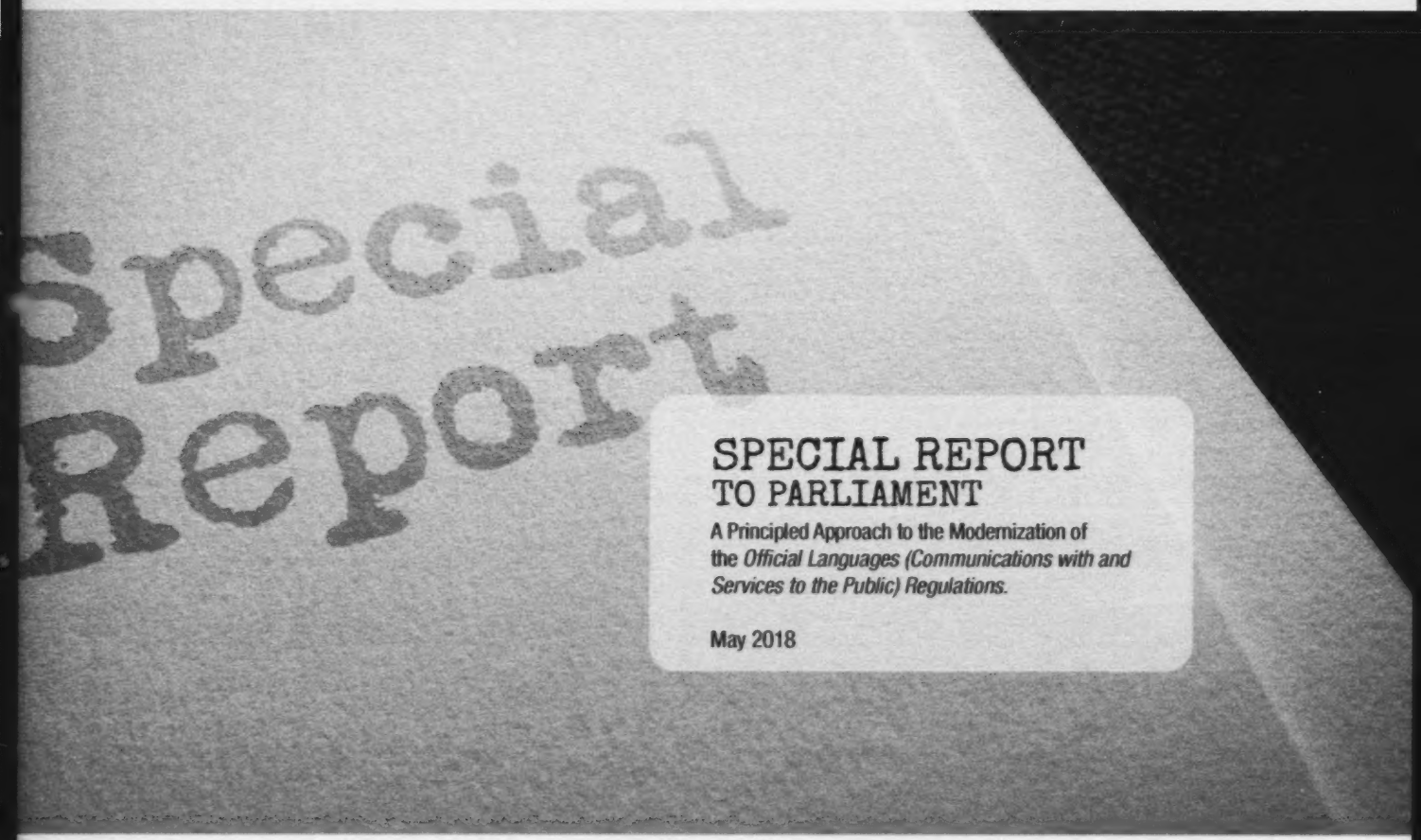

SPECIAL REPORT TO PARLIAMENT

A Principled Approach to the Modernization of the *Official Languages (Communications with and Services to the Public) Regulations*.

May 2018

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The Act provides the Commissioner with the specific authority to initiate a review of any regulations... made under the Act and to report thereon to Parliament. Given the importance of regulations... we suspect we will be exercising that authority on a regular basis.

– Commissioner of Official Languages D'Iberville Fortier, 1988 annual report[i]

The question arises whether the first duty of the federal government with respect to its commitment to enhancing the vitality of English and French linguistic minority communities is not precisely to provide, insofar as possible, its own services in both languages in a reasonable but generous manner.

– Brief by Commissioner Fortier to the Standing Joint Committee on Official Languages, December 5, 1990[ii]

THE SPEAKER OF THE SENATE

Ottawa

Mr. Speaker,

Pursuant to sections 57 and 67 of the *Official Languages Act*, I am pleased to present to you, for tabling in the Senate, the enclosed special report to Parliament entitled *A Principled Approach to the Modernization of the* Official Languages (Communications with and Services to the Public) Regulations.

Yours respectfully,

Raymond Théberge

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Mr. Speaker,

Pursuant to sections 57 and 67 of the *Official Languages Act*, I am pleased to present to you, for tabling in the House of Commons, the enclosed special report to Parliament entitled *A Principled Approach to the Modernization of the* Official Languages (Communications with and Services to the Public) Regulations.

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Statement of Purpose

Further to the special report, annual reports, and submissions and briefs submitted to Parliament by various commissioners of official languages concerning the *Official Languages (Communications with and Services to the Public) Regulations*; and

Given the importance of the link between the delivery of public services and communications in both official languages and the development and vitality of official language minority communities; and

Considering the urgency created by the current governmental review of the *Official Languages (Communications with and Services to the Public) Regulations* and the historic opportunity the review presents to introduce a truly modernized regulatory framework,

Pursuant to sections 57 and 67 of the *Official Languages Act*, I hereby submit this special report to Parliament listing the shortcomings of the present regulations and urging that the following five principles be incorporated into the government's forthcoming draft regulations:

- Increase access to services of equal quality in both official languages.
- Seek to achieve substantive equality, taking into account the particular characteristics of official language minority communities.
- Consider the remedial nature of language rights, including the fact that these rights are designed to counter the gradual decline of official language minority communities.
- Include incentives to ensure that services are provided by federal institutions in both official languages.
- Reflect a clear and simplified regulatory approach.

I believe that, without a principled approach to the modernization of the Regulations, a lasting regulatory framework that is faithful to the fundamental values expressed in the *Official Languages Act* and the *Canadian Charter of Rights and Freedoms* cannot be achieved.

I. Brief outline and history of the *Official Languages (Communications with and Services to the Public) Regulations*

i. *Official Languages (Communications with and Services to the Public) Regulations*

The *Constitution Act, 1867*, and the *Canadian Charter of Rights and Freedoms* (Charter) recognize and protect the fundamental values of Canadian society, which include the equality of status and use of English and French within the institutions of Parliament and the Government of Canada. Language rights are remedial in nature, and the Charter outlines the possibility for enhancing language rights by giving a role to Parliament and provincial legislatures in the advancement of "the equality of status or use of English and French."[iii] That is, laws, regulations and government programs must try to achieve the objective of substantive equality.

The Supreme Court of Canada has recognized that language rights are a particular kind of right that must in all cases be interpreted purposively and in a manner consistent with the preservation and development of official language minority communities in Canada. To ensure the full implementation of the language rights guaranteed in the Charter, Parliament revised the *Official Languages Act* (Act) in 1988. The fundamental public right to communicate with federal institutions and receive services in either official language are executed in the *Official Languages (Communications with and Services to the Public) Regulations* (Regulations).

The current Regulations:

- define English and French linguistic minority populations;
- establish "significant demand" for services in the minority language;
- determine whether "key services" or "all services" are to be provided after significant demand has been established;
- establish "significant demand" for services to the "travelling public"; and
- establish when services are provided in both official languages because of the "nature of the office".

ii. Timeline of major developments

1988, September: The revised Act is proclaimed.

1989, April: In his 1988 annual report, Commissioner of Official Languages D'Iberville Fortier recommends that regulations reflecting the letter and spirit of the Act be promptly developed and adopted.

> We are . . . concerned that these fillings in of the interstices of the law be as generous and far-reaching as the spirit of the Act itself. It is no use having a sensible and large-spirited sourcebook only to follow it up with a lot of mean-spirited commentary that tends to smother the original idea.[iv]

1990, October: In Commissioner Fortier's *Special Report to Parliament Pursuant to Section 67 of the Official Languages Act, on the tabling of draft regulations and in particular of regulations on Communications with and services to the public*, the first special report to Parliament in the history of the Office of the Commissioner of Official Languages (Office of the Commissioner),

> the Commissioner of Official Languages once more formally urges the government, by means of this special report, to immediately table the draft regulations on communications with and services to the public, and to table as soon as possible thereafter the remaining regulations required under the Official Languages Act. He respectfully requests that Parliament take all measures within its power to achieve this end.[v]

1990, November: Draft Regulations are tabled in Parliament.

1991: In his 1990 annual report,

> Commissioner [Fortier] described the draft regulations as *equitable*, noting that . . . both minorities would have access to the same services in the same circumstances. He also found them *reasonable* . . . [however] the criteria proposed for the definition of "significant demand", which is based in many cases on the minority population as a percentage of the total population, establishes unjustified differences between minority communities of equivalent size; only indicators based on absolute numbers should be used . . . . The range of key services should [also] be extended to institutions which, depending on the region, are of particular importance to minority community development.[vi]

1991, December: The Governor-in-Council formally adopts the Regulations.

1992–1994: The Regulations enter into force.

1999: The Supreme Court of Canada's *Beaulac* decision confirms both the large-and-liberal interpretation of language rights, which "must in all cases be interpreted purposively, in a manner

consistent with the preservation and development of official language communities[vii] in Canada", and the remedial nature of such rights. The Supreme Court reaffirms that the "principle of substantive equality has meaning. It provides in particular that language rights that are institutionally based require government action for their implementation and therefore create obligations for the State."[viii]

2005: Commissioner of Official Languages Dyane Adam initiates a pan-Canadian consultation on the Regulations.

2006: In her 2005–2006 annual report, Commissioner Adam recommends that the President of the Treasury Board "modernize the [Regulations] to allow Canadians to receive services of equal quality in the official language of their choice."[ix]

2007: The federal court ruling in *Doucet v Canada (2004)* declares a provision of the Regulations unconstitutional. Commissioner Adam calls for a meaningful revision, but the subsequent amendment is minor. The Royal Canadian Mounted Police's language obligations were based not on the travelling public who used the Trans-Canada Highway, but on the local population near Amherst, Nova Scotia. The revision of the significant demand criteria was limited to this section of the highway.

2009: The Supreme Court of Canada confirms in *DesRochers v Canada* that, in order to achieve linguistic equality, the government may be required to provide services "with distinct content." The nature and purpose of the service in question must be taken into account in order to determine what is necessary for each official language community.[x]

2010: Bill S-220 is tabled by Senator Maria Chaput. It is the first of several iterations that would later include bills S-211, S-205 and S-209, the latter tabled by Senator Claudette Tardif. Among other things, it aims to redefine how English and French linguistic minority populations are calculated and mandates that Government take into account "the particular characteristics, including the institutional vitality, of the English or French linguistic minority population of the area served" when designating points of service as bilingual. Now sponsored by Senator Raymonde Gagné (Senator Chaput having retired in 2016 and Senator Tardif having retired in 2018), S-209 has passed second reading and has been referred to the Standing Senate Committee on Official Languages.[xi]

2015, February: The Société franco-manitobaine applies for a court remedy. The Société petitions the Federal Court to find a provision of the Regulations inconsistent with both section 20 of the Charter and several provisions of the Act, and to order the government to amend the Regulations. The Société maintains, that the Regulations contain an unduly restrictive definition of "Francophone" and that the use of formal numerical thresholds is inconsistent with the objectives of the Act. The Court granted a stay of proceedings until the fall of 2018.

2015, April: Commissioner of Official Languages Graham Fraser submits a brief to the Standing Senate Committee on Official Languages in support of then-Bill S-205: *An Act to Amend the Official Languages Act (Communications with and Services to the Public).*[xii]

2016, May: In his 2015–2016 annual report, Commissioner Fraser recommends that:

> the Treasury Board undertake an evaluation, in consultation with official language communities, of the effectiveness and efficiency of its policies and directives for implementing Part IV of the Act" and that "Parliament make Bill S-209 a priority."[xiii]

2016, November: The President of the Treasury Board and the Minister of Canadian Heritage announce that the Regulations will be reviewed and that new Regulations will be adopted in the spring of 2019, and the government imposes "a moratorium on bilingual offices that were slated to become unilingual."[xiv]

II. Need to truly modernize the Regulations

Since the Regulations were introduced in 1991, Canadian society has changed, particularly in terms of demographic makeup and increased urbanization, as well as technological advancements and immigration and their impact on official language communities. A true modernization of the Regulations would help federal institutions to take these new Canadian realities into consideration when providing their services. Canada needs an ambitious regulatory framework for official languages that is adapted to current and future realities and that helps to ensure that the Act is implemented consistently and effectively.

While criticisms of the Regulations are well documented and manifold, the following is a condensed survey of the most pressing issues. As a testament to my office's long-standing—and outstanding—dedication to this critical element of Canada's official languages architecture, some of the issues are accompanied by the recommendations of one of my predecessors, Commissioner Fortier, which he conveyed to your own predecessors when the Regulations were tabled.

- Demographic rules are overly complicated and poorly understood.
    - Seven demographic rules are used to establish significant demand. They are divided according to census metropolitan areas and census subdivisions. These rules, along with other complexities, make it hard for Canadians to clearly understand when and where they can exercise their right to receive services in the official language of their choice.
- Discrepancies are created by the use of the minority-percentage-of-the-total-population criterion to establish significant demand.
    - A criterion based on a percentage of the population establishes unwarranted inconsistencies in service between official language communities of equivalent size. For example, the official language community in St. Paul, Alberta, is composed of 615 people, which represents 11% of the total population, and they are entitled to receive all services in their language. The 640 members of the official language community in Brandon, Manitoba, however, constitute only 1.3% of the population, so they are entitled to receive only key services in their language.[xv]

> *We by far prefer absolute numerical criteria . . . to numerical criteria plus a percentage. The effect of this would be to reduce markedly the inequalities in treatment between minority groups of the same size. In addition, the adoption of such thresholds would to some extent compensate for the absence from the draft regulations of measures to foster actively communications and services and of criteria concerning vitality in the draft regulations. – Commissioner Fortier, 1990*[xvi]

- The exclusively quantitative definition of significant demand is exclusionary.
    - Subsection 32(2) of the Act provides for the possibility of taking into account the "particular characteristics of [the minority] population" and "any other factors that the Governor in Council considers appropriate." However, a purely quantitative formula was adopted. The presence of educational, social, economic, cultural or minority media institutions could be indicators signalling the existence of a community and bearing witness to its vitality.
    - Communications in both official languages and the active offer of services by local federal offices represent important symbols of the government of Canada's recognition of the presence of the official language community, its vitality and its contribution to Canadian society. They are indispensable tools for the development and vitality of the community. The Regulations' failure to identify "particular

characteristics" when defining "significant demand" results in inconsistencies in the application of the Act as a whole and runs contrary to the purpose of the Act, which includes supporting the development of English and French linguistic minority communities.

- The First Official Language Spoken method underestimates minority language demand.
  - The First Official Language Spoken method does not take into account all of the people likely to choose to be served in the minority language, including exogamous families and people who speak the minority language regularly at home.
- The Regulations are applied inconsistently or incoherently.
  - The demographic rules can produce outcomes where larger official language communities have access to fewer services than smaller ones. For example, the official language community of 795 (5.7%) in Canmore, Alberta, is entitled to all services in the minority language, while the official language community of 1,170 (0.8%) in Abbotsford, British Columbia, is entitled only to key services.
  - A small official language community can show signs of thriving and yet be deprived of services in its own language from federal offices under Part IV of the Act because it does not meet the Regulations' numerical criteria for "significant demand." In Thompson, Manitoba, for example, there is a French-language elementary school under section 23 of the Charter, but no significant demand for French-language services under the Regulations.
  - Local provincial and municipal services are sometimes available in both official languages, while local federal services are available in only the official language of the majority.

> *We believe that a rule of interpretation should be added . . . to adapt the structure of the federal services, insofar as possible . . . to ensure that they take due account of the provincial, municipal and educational services provided in a given locality. – Commissioner Fortier, 1990*[xvii]

  - An Air Canada passenger can gain and lose language rights on the same voyage on a unilingual flight between two bilingual airports.

> *We . . . suggest the inclusion of a stipulation, that services will be offered in both official languages . . . between two bilingual airports. – Commissioner Fortier, 1990*[xviii]

- Most language obligations on the Trans-Canada Highway are determined by demographic data and geographic factors that do not necessarily reflect the actual demand for services in both official languages by the travelling public.
- Customs and immigration services are provided by the same institutions and by the same offices; however, their language obligations can be different because they are governed by different rules: "nature of the office" and "significant demand", respectively.
- Similarly, services in offices that are considered to be diplomatic missions or consular posts must be provided in both official languages; however, not all Immigration, Refugees and Citizenship Canada offices that are housed in embassies and consulates are subject to the same obligation.

> *Canadians abroad should be assured of obtaining services in their language from any institution subject to the Act. In any event, bilingualism at federal offices abroad should be a requirement, since these offices represent Canada as a whole. – Commissioner Fortier, 1990*[xix]

- The key services defined by the Regulations are not necessarily the most important local federal services for some official language communities.

> *We suggest complementing the proposed key services with some additional services that are of particular interest to minority communities, e.g. services from the Federal Business Development Bank, the Canada Mortgage and Housing Corporation, the Public Service Commission, and the CBC - Radio-Canada. – Commissioner Fortier, 1990*[xx]

- The Regulations do not explicitly require federal institutions to take the needs of the official language community into account when adding, removing or relocating a bilingual office.

> *We suggest . . . that the obligation be added to consult with the minority communities when selecting designated offices. – Commissioner Fortier, 1990*[xxi]

- Search and rescue services, as well as emergency signage, are not provided in both official languages across the country, because they are subject to the rules for "significant demand" rather than "nature of the office."
- There are no service standards and standards of conduct.

- The Regulations do not specify how services should be delivered so as to meet the requirements of the Act and the Charter. For example, they fail to provide details that could facilitate the implementation of active offer.

> *Given its central role, active offer itself should be regulated so as to specify the rights of the public and the obligations of the administration in this regard and to clearly establish the conditions for its existence. – Commissioner Fortier, 1990*[xxii]

- There is no mandatory review.
  - The Regulations have no mechanism to guarantee that they are reviewed regularly to ensure that they are still effective. A long-overdue review is currently under way; however, the date of the next such exercise is uncertain—and there is no obligation to conduct one.

> *We suggest that the regulations establish the requirement to conduct periodic impact studies of effectiveness of the regulatory measures. – Commissioner Fortier, 1990*[xxiii]

The breadth of issues with the Regulations underlines the necessity of the government's current review exercise, and the depth of issues testifies to the necessity of a truly modernized regulatory framework. Some of these concerns can be traced all the way back to my predecessor's recommendations to the Standing Joint Committee on Official Languages in 1990 when the original draft regulations were tabled. Others have arisen out of jurisprudence and a changing society, and still others have become clear with the benefit of a generation of application. Any revisions proposed during this exercise should, however, be guided by principles that support the development and vitality of official language communities and ensure that members of the public can fully exercise their language rights.

III. *A principled approach to the modernization of the* Official Languages (Communications with and Services to the Public) Regulations

Just as the Act is quasi-constitutional, it must be recognized that the Regulations are quasi-legislative. This means that just as the Act is an instrument that reflects certain principles of Canada's Constitution and the Charter, the Regulations are an instrument that reflects the principles contained in the Act. Because they are quasi-legislative, the significance of these Regulations should not be understated by comparisons to ordinary regulations. These Regulations must be recognized as a key instrument in the interpretation and application of the fundamental values elaborated in both the Act and the Charter.

Interim Commissioner of Official Languages Ghislaine Saikaley proposed five principles in her 2016–2017 annual report in order to guide this exercise in modernizing the Regulations. Each principle is outlined below, along with how it could potentially find application in modernized Regulations.

i. Increase access to services of equal quality in both official languages

New regulations should focus on accessibility to services of equal quality in such a way as to reach official language communities in their setting. This principle provides that the services should be, in certain cases, delivered at more than one office and close to the communities.

As noted above, the current Regulations do not specify how services should be delivered so as to meet the requirements of accessibility and equal quality provided for in the Act, the Charter and jurisprudence. In other words, the Regulations do not define standards of service accessibility or standards of conduct for service delivery. Rather, the federal government employs policies and directives to address these aspects.

In concrete terms, in order to implement this principle, modernized Regulations should seek to:

- integrate the concepts outlined in the Treasury Board of Canada Secretariat (TBS) *Policy on Official Languages, Directive on Official Languages for Communications and Services* and *Directive on the Implementation of the Official Languages (Communications with and Services to the Public) Regulations* (e.g., active offer, key service, office, principle of proportionality, restricted and identifiable clientele);
- revise and expand the list of key services and services always provided in both official languages due to the nature of the office to ensure that official language communities are

receiving the services that are important to them in their language (e.g., search and rescue services, emergency signage);

- consider the needs and particular characteristics of the official language community when designating where offices will be located under the principle of proportionality and, when only a certain number of offices need to provide services in both official languages in a given service area, place those offices in a location that is accessible to the community and its members;
- revise and expand the right to services in both official languages (e.g., on Air Canada flights, at VIA Rail stations, at airports, when receiving RCMP services on the Trans-Canada Highway) to ensure greater consistency of language rights for travellers and members of the public;
- provide service delivery standards to ensure that services provided in person and through the use of technology are equally accessible, of equal quality and delivered promptly and efficiently in both official languages (e.g., point-of-service location and medium, wait times, transfer of clients when needed); and
- conduct a formal review, (e.g., every 10 or 15 years), to ensure that the Regulations reflect current realities.

ii. Seek to achieve substantive equality, taking into account the particular characteristics of official language communities

The concept of substantive equality has been defined by the Supreme Court of Canada in several judgments, including the *Beaulac* and *DesRochers* decisions. In essence, substantive equality recognizes that members of different official language communities may have different needs and that a request for service in the official language of the linguistic minority should not be considered a request for accommodation. As TBS's *Analytical Grid (Substantive Equality)* recognizes:

> Substantive equality is achieved when one takes into account, where necessary, the differences in characteristics and circumstances of minority communities and provides services with distinct content or using a different method of delivery to ensure that the minority receives services of the same quality as the majority.

New regulations should therefore strive to implement the principle of substantive equality as defined by the courts. To do this, when determining the methods of service and program delivery, the federal government must consider the specific characteristics and needs of the official language communities that have the right to be served in the official language of their choice.

In concrete terms, in order to implement this principle, modernized Regulations should seek to:

- expand the definition of minority population according to First Official Language Spoken criteria so that it includes individuals who speak the official language of the linguistic minority regularly at home and so that it is more representative of the current sociolinguistic and demographic realities faced by official language communities and by individuals who identify with those communities;
- consider qualitative criteria and the particular characteristics of official language communities (e.g., institutional vitality indicators such as the presence of educational, social, cultural, economic, health or other governmental services), rather than purely quantitative criteria, when calculating significant demand;
- revise the minimum required size of a minority population to 200 individuals and remove the requirement for the minority population to represent at least 5% of the total population so that the distinction between census metropolitan areas and census subdivisions is no longer needed and the seven demographic rules determining significant demand can be simplified (i.e., because there would no longer be a need for calculations that require the minority linguistic population to represent at least 5% or 30% of the population); and
- harmonize the application of these Regulations with the obligations of provincial and municipal offices to provide services in the official language of the linguistic minority, where they exist (i.e., where municipal or provincial services are required to be provided in the official language of the linguistic minority, federal services would also be provided in that language, regardless of the demographic conditions).

iii. Consider the remedial nature of language rights, including the fact that these rights are designed to counter the gradual decline of official language communities

Since the *Beaulac* decision, the Supreme Court of Canada has recognized that there is no longer any doubt about the remedial nature of language rights.

This principle represents the need to correct inequalities within society and to promote justice among groups. It seeks to protect the viability of certain sub-groups and their cultures, which can be eroded by the dominant culture and lead to injustices. In this context, language rights address inequalities and injustices by reducing the vulnerability of minority cultures and by ensuring that members of the minority groups have opportunities equal to those of the majority. Governments

must therefore put structures into place to allow the minority's languages and cultures not only to exist but to develop and flourish under conditions similar to those of the majority.

The current Regulations do not recognize that they have a significant impact on the status of the official language of the linguistic minority and on the development and vitality of official language communities. If services are provided in the official language of the linguistic minority, the language is brought into the public sphere and is given a status and legitimacy that allow the community to develop and thrive rather than assimilate.

New regulations should promote the vitality and development of official language communities. Under this principle, significant demand should be defined using the qualitative criteria outlined above, along with a quantitative component.

In concrete terms, in order to implement this principle, modernized Regulations should seek to:

- recognize the symbolic importance of the presence of federal government institutions in any given official language community;
- abandon all requirements that an official language minority population represent a certain percentage of the majority population in order to obtain services in their language (i.e., the offices of federal institutions should be required to serve official language communities where they are, regardless of the relative size of the total population of the region served by those offices);
- recognize children of exogamous relationships and those whose mother tongue is that of the official language minority population as belonging to the minority population, even if they are not able to converse in that language because of assimilating factors;
- encourage a holistic rather than a compartmentalized implementation of the Act that includes a consistent and effective application of the various parts of the Act and, in particular, parts IV, V and VII. That is, the rights from Part IV of the Act must be seen as being part of a whole—the entire Act—aimed at the same targets: the equality of both official languages and the development and vitality of official language minority communities. Indeed, the government recognized the relationship between these Regulations and Part VII of the Act in its 1992 Regulatory Impact Analysis Statement: "furthermore, these Regulations are a concrete expression of the Government's commitment to support official language minority communities as set out in Part VII of the *Official Languages Act*."[xxiv]

- avoid inconsistent situations where a minority community may obtain funding from a federal institution for the creation and management of a community centre (Part VII), for instance, but be denied service in the official language of the linguistic minority at the post office next door (Part IV).

iv. Include incentives to ensure that services are provided by federal institutions in both official languages

It is only natural for federal institutions' offices to consider their own particular mandate and operational requirements when designing and delivering services. This principle, however, is meant to give those offices greater incentives to provide improved and efficient services by breathing life into the call "to foster actively" expressed in section 33 of the Act.

For example, the current Regulations set the minimum number of offices that must provide services in both official languages in a particular location. Federal institutions see them as the TBS "stick" (i.e., obligations with which they must comply). The time has come to use the carrot (i.e., incentives) to encourage institutions to consider the needs of official language communities and their members when designing and delivering services.

In concrete terms, in order to implement this principle, modernized Regulations should seek to:

- actively foster communications with and services to the public from offices or facilities of federal institutions in both official languages;
- define what could be included in incentives;
- create a system to encourage federal institutions to provide services in both official languages that could include:
    - enhancing the accessibility of services,
    - ensuring active offer,
    - providing services of equal quality,
    - providing services through technology,
    - restructuring offices and services, and
    - providing services through third parties; and
- encourage federal institutions' offices to promote available bilingual services to the public and official language communities, deliver services in both official languages, assess

whether those services are meeting the needs of official language communities, and implement community consultation and feedback mechanisms.

v. Reflect a clear and simplified regulatory approach

Over the years, official language communities and the public have complained that the Regulations are too complex for the average citizen to understand and therefore members of the public do not know when or where they may obtain a particular service in their language. The situation is even more complicated for members of the travelling public, who can gain or lose the right to be served in the official language of their choice over the course of a single trip.

New regulations present the opportunity to simplify the current regulatory framework so that Canadians can understand their rights better and exercise them more easily.

In concrete terms, in order to implement this principle, modernized Regulations should seek to:

- reduce the number and complexity of demographic rules that define "significant demand;"
- allow for calculations based on a single geographical unit rather than Census Metropolitan Areas and Census Subdivisions;
- allow for greater consistency in services provided to official language communities with similar populations (i.e., official language communities of similar sizes should be equally served in their language, regardless of historical circumstances and regardless of their size relative to the majority population);
- provide federal services in both official languages wherever the same obligation exists at the provincial or municipal levels of government; and
- provide more consistent and accessible bilingual services to the travelling public (e.g., a presumption of significant demand along the entire Trans-Canada Highway) and synchronize the rights of air travellers, where possible, so that a traveller does not gain or lose language rights over the course of a single trip.

I believe that, without a principled approach to the modernization of the Regulations, a lasting regulatory framework that is faithful to the fundamental values expressed in the Act and the Charter cannot be achieved.

IV. Conclusion and recommendation

In light of the foregoing and given the importance of the link between the delivery of services and communications to the public in both official languages and the development and vitality of official languages communities; the impact of services provided to the public in both official languages on the status and legitimacy of the minority official language; the particular characteristics of Canada's English and French linguistic minority communities; the urgency created by the government's current review of the Regulations: and the historic opportunity the review presents,

> I recommend that Parliament send this report to one of the two standing committees on official languages to thoroughly examine the issues raised regarding the need for truly modernized *Official Languages (Communications with and Services to the Public) Regulations.*

In accordance with section 88 of the Act, the standing committees will no doubt wish to monitor the overall progress of the regulatory review exercise, including any ensuing draft regulations, by consulting representatives of English and French linguistic minority communities and other concerned parties, and by proposing changes and improvements, as required. Their practical experience, which complements that of my office, is essential to the analysis of any system whose ultimate aim is to support the preservation and development of official language communities in Canada and to promote the equality of English and French in Canadian society.

V. Endnotes

[i] Commissioner of Official Languages, *Annual Report 1988*, Ottawa, 1989, p. 35.
[ii] Commissioner of Official Languages, *Regulations on Communications and Services: Brief by the Commissioner of Official Languages to the Standing Joint Committee on Official Languages*, December 5, 1990, paragraph 24.
[iii] *Canadian Charter of Rights and Freedoms*, 1982, subsection 16(3).
[iv] Commissioner of Official Languages, *Annual Report 1988*, Ottawa, 1989, p. 35.
[v] Commissioner of Official Languages, *Special Report to Parliament Pursuant to Section 67 of the Official Languages Act, on the tabling of draft regulations and in particular of regulations on Communications with and services to the public*, October 25, 1990, p. 13.
[vi] Commissioner of Official Languages, *Annual Report 1990*, Ottawa, 1991, p. 60-62.
[vii] The term "official language communities" is used to designate official language minority communities.
[viii] *R. v Beaulac* [1999] 1 S.C.R. 768.
[ix] Commissioner of Official Languages, *Annual Report 2005–2006*, Ottawa, 2006, p. 31.
[x] *DesRochers v Canada (Industry)*, [2009] 1 S.C.R. 194.
[xi] S-209, *An Act to amend the Official Languages Act (communications with and services to the public)*, 42nd Parliament, 1st Session.
[xii] Commissioner of Official Languages, *Brief submitted to the Standing Senate Committee on Official Languages, Bill S-205: An Act to Amend the Official Languages Act (Communications with and Services to the Public)*, Ottawa, April 20, 2015.
[xiii] Commissioner of Official Languages, *Annual Report 2015–2016*, Ottawa, 2016, p. 21.
[xiv] Treasury Board of Canada Secretariat, *Government of Canada to review Official Languages Regulations*, News Release, November 17, 2016.
[xv] All population data is taken from the 2016 Canada Census.
[xvi] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 24.
[xvii] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 51.
[xviii] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 36.
[xix] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 29.
[xx] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 23.
[xxi] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 22.
[xxii] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 56.
[xxiii] Commissioner of Official Languages, *Brief to the Standing Joint Committee*, para. 56.
[xxiv] Canada Gazette Part II, Vol. 126, No. 1 SOR/DORS/92-48, January 1, 1992.